

content of the gasoline. Such certification shall be deemed sufficient evidence of compliance provided it is not contradicted by specific evidence, such as testing results, and provided that the party has no other reasonable basis to believe that the facts stated in the certification are inaccurate. In the case of a violation alleged against a retail outlet or wholesale purchaser-consumer facility, such certification shall be deemed an adequate defense for the retailer or wholesale purchaser-consumer, provided that the retailer or wholesale purchaser-consumer is able to show certificates for all of the gasoline contained in the storage tank found in violation, and, provided that the retailer or wholesale purchaser-consumer has no reasonable basis to believe that the facts stated in the certifications are inaccurate.

[54 FR 11885, Mar. 22, 1989; 54 FR 27017, June 27, 1989, as amended at 56 FR 64711, Dec. 12, 1991; 58 FR 14484, Mar. 17, 1993; 62 FR 68205, Dec. 31, 1997]

§80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* (1) Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply or transport any diesel fuel for use in motor vehicles, except as provided in 40 CFR 69.51, unless the diesel fuel:

(i) Has a sulfur percentage, by weight, no greater than 0.05 percent;

(ii)(A) Has a cetane index of at least 40; or

(B) Has a maximum aromatic content of 35 volume percent; and

(iii) Is free of visible evidence of:

(A) The dye 1,4-dialkylamino-anthraquinone; and

(B) Beginning October 1, 1994;

(1) The dye solvent red 164; unless

(2) It is used in a manner that is tax-exempt as defined under section 4082 of the Internal Revenue Code.

(2) In the case of any diesel fuel not intended for use in motor vehicles, no refiner or importer shall add or introduce any amount of the dye 1,4-

dialkylamino-anthraquinone into such fuel beginning October 1, 1994.

(b) *Determination of compliance.* Any diesel fuel which does not show visible evidence of being dyed with either 1,4-dialkylamino-anthraquinone (which has a characteristic blue-green color in diesel fuel) or dye solvent red 164 (which has a characteristic red color in diesel fuel) shall be considered to be available for use in diesel motor vehicles and motor vehicle engines, and shall be subject to the prohibitions of paragraph (a) of this section. Compliance with the standards listed in paragraph (a) of this section shall be determined by use of one of the sampling methodologies specified in appendix G to this part.

(c) *Transfer documents.* (1) Any person that transfers custody or title of diesel fuel for use in motor vehicles which contains visible evidence of the dye solvent red 164 shall provide documents to the transferee which state that such fuel meets the applicable standards for sulfur and cetane index or aromatic content under these regulations and is only for tax-exempt use in diesel motor vehicles as defined under section 4082 of the Internal Revenue Code.

(2) Any person that is the transferor or the transferee of diesel fuel for use in motor vehicles which contains visible evidence of the dye solvent red 164, shall retain the documents required under paragraph (c)(1) of this section for a period of five years from the date of transfer of such fuel and shall provide such documents to the Administrator or the Administrator's representative upon request.

(d) *Liability.* Liability for violations of paragraph (a)(1) of this section shall be determined according to the provisions of §80.30. Any person that violates paragraph (a)(2) or (c) of this section shall be liable for penalties in accordance with paragraph (e) of this section.

(e) *Penalties.* Penalties for violations of paragraph (a) or (c) of this section shall be determined according to the provisions of §80.5.

[59 FR 35858, July 14, 1994, as amended at 63 FR 49465, Sept. 16, 1998]